

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-A-TARA ROHE**

[2025] NZERA 383
3351061

BETWEEN	VISHAL SATIJA Applicant
AND	EPIPHANY DONUTS NEWTOWN LIMITED First Respondent
AND	EPIPHANY DONUTS WAIKANAЕ LIMITED Second Respondent
AND	OTTO AZUCENA Third Respondent

Member of Authority: Rowan Anderson

Representatives: John Wood, advocate for the Applicant
Otto Azucena, for the Respondents

Investigation Meeting: On the papers

Submissions and other
information received: Up to and including 16 May 2025

Determination: 1 July 2025

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Mr Satija has lodged a statement of problem seeking compliance orders relating to orders made by the Authority.

[2] In response to the compliance application Mr Azucena has lodged a statement in reply referencing the basis for the substantive determination, attempts to negotiate payment, and a challenge to the costs determination.

The Authority's investigation

[3] A case management conference was held on 25 March 2025 to discuss the Authority's investigation of the compliance matter. I advised at the case management conference that I considered the matter should be dealt with 'on the papers' without the need for an in-person investigation meeting. There was no objection to that approach and timetable directions were issued.

[4] Ms Ivy Criselda Tan-Azucena, who was initially named as a respondent, was removed as a party with the consent of the applicant.

[5] An affidavit from Mr Satija was lodged together with written submissions.

[6] Mr Azucena lodged an affidavit and various documents in response. The documents included a proposal to settle the matter, documents related to a previous mediation which I have not considered, and various communications between himself and Mr Satija.

[7] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

Issues

[8] The issues identified for investigation and determination are:

- (a) Have any of the respondents failed to comply with the orders made by the Authority in:
 - (i) *Satija v Epiphany Donuts Newtown Ltd and Ors* [2024] NZERA 580 at paragraph [21] requiring the payment of \$34,900 within 28 days; and/or
 - (ii) *Satija v Epiphany Donuts Newtown Ltd and Ors* [2024] NZERA 727 at paragraph [12] requiring the payment of \$4,500 within 28 days.
- (b) If any of the respondents have failed to comply with the determinations, should a compliance order be made in terms of ss 137 and 138 of the Employment Relations Act 2000 requiring the respondents to comply with the determinations by making payment of the relevant sums?
- (c) Is the applicant entitled to reimbursement of the filing fee?

- (d) Should either party contribute to the costs of representation of the other party?

Consideration

[9] On 2 October 2024, I issued a determination in which I found that there was a binding settlement agreement as between Mr Satija and Mr Azucena, and the First and Second Respondents (the ‘substantive determination’). In that determination I made orders requiring Mr Azucena and the First and Second Respondents to make payment of the outstanding sum of \$34,900 due under a settlement agreement.¹

[10] On 5 December 2024, I issued a costs determination which included an order that the respondents make payment to Mr Satija of \$4,500 as a contribution towards his costs in pursuing his substantive application (the ‘costs determination’).²

[11] The sums due have not been paid.

[12] Mr Azucena says that he remains willing to pay the sum due in relation to the substantive determination but is awaiting payment of money from another person. He takes issue with what he says are threats and harassment from Mr Satija including various communications said to have been, in effect, inappropriate.

[13] Mr Satija’s submissions noted that a challenge to the costs determination, filed by the respondents, was before the Employment Court but that no stay had been sought. I do not consider the mere fact that a challenge has been filed amounts to a proper ground on which I should decline to make the compliance orders sought.

[14] To the extent Mr Azucena seeks to relitigate the issues associated with the substantive determination, they are not matters relevant to the application for compliance orders that has been made. Nor do I consider any attempts to reach agreement as to any settlement or payment plan are relevant to the present application.

[15] Such as Mr Azucena has indicated there are issues in terms of the availability of funds to make payment of the sums due, I do not consider the evidence provided is sufficiently detailed such as would justify the imposition of a payment plan.

¹ *Satija v Epiphany Donuts Newtown Limited and Ors* [2024] NZERA 580 at [22].

² *Satija v Epiphany Donuts Newtown Limited and Ors* [2024] NZERA 727 at [12].

[16] The sums due have not been paid and I consider the making of compliance orders appropriate.

Costs and reimbursement of the lodgement fee

[17] Mr Satija is entitled to reimbursement of the lodgement fee of \$71.55.

[18] Costs have been sought by Mr Satija in relation to this compliance application. Having regard to the nature of the matter, the limited work involved in relation to the application itself, and the absence of information verifying relevant costs, I decline to make an award of costs.

Order

[19] Otto Azucena, Epiphany Donuts Newtown Limited, and Epiphany Donuts Waikanae Limited are required to comply with the orders made by the Authority, within 14 days of this determination, by making payment to Vishal Satija of:

- (a) \$34,900;³ and
- (b) \$4,500.⁴

[20] Otto Azucena, Epiphany Donuts Newtown Limited, and Epiphany Donuts Waikanae Limited are required to pay Mr Satija of \$71.55, within 28 days of this determination, as reimbursement of the lodgement fee related to this application.

Rowan Anderson
Member of the Employment Relations Authority

³ *Satija v Epiphany Donuts Newtown Ltd and Ors* [2024] NZERA 580 at [21].

⁴ *Satija v Epiphany Donuts Newtown Ltd and Ors* [2024] NZERA 727 at [12].